

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MIDWEST AGGREGATES, a division of)	
PAYNE & DOLAN, INC.,)	
)	
Plaintiff,)	Case No. 08-C-00511
)	
v.)	
)	Hon. John A. Nordberg
J & L CONCRETE, INC. and UNITED)	U.S. District Court Judge
CONCRETE WAUKEGAN, INC.,)	
)	Hon. Morton Denlow
Defendants.)	U.S. District Court Magistrate Judge

AFFIDAVIT OF JEFFREY B. ROSE

Jeffrey B. Rose, being first duly sworn, upon his oath deposes and states as follows:

1. I am an attorney employed at Tishler & Wald, Ltd., have personal knowledge of the facts stated in this Affidavit and could testify competently to such facts if called upon to do so.

2. At all times relevant to this Affidavit, I have been the attorney with primary responsibility for representing the Defendants in the above entitled litigation.

3. On April 24, 2008, I attended a status hearing before Judge Nordberg, at which time Vilan Odekar, counsel for the Plaintiff, stated that she would be filing a Motion for Summary Judgment by the end of that week.

4. Since April 24, 2008, I have not received a copy of a Motion for Summary Judgment filed in this proceeding, whether by mail, facsimile, personal delivery or electronic transmission.

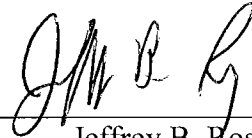
5. In advance of the Court's scheduled status hearing on June 5, 2008, I decided to review the court docket for this proceeding on the Pacer system today, June 3, 2008, at which

time I discovered that a Motion for Summary Judgment had been filed and allegedly served via the Court's electronic filing system on or about April 24, 2008.

6. Since discovering that a Motion for Summary Judgment had been filed on April 24, 2008, I have duly reviewed all of the incoming electronic mail received on my computer since that date, but I have failed to locate any notice of other mention of the filing of said Motion.

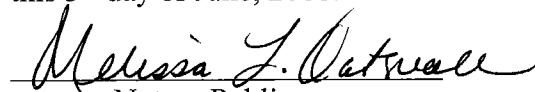
7. I have not erased any of the e-mail entries from my computer since April 24, 2008, with the exception of entries which were clearly "spam" or constituted other types of inappropriate messages.

Further your Affiant sayeth naught.



Jeffrey B. Rose

SIGNED AND SWORN TO
before me by Jeffrey B. Rose
this 3rd day of June, 2008.


Notary Public